

KENTUCKY TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
DIVISION OF CONSTRUCTION
DBE Detailed Plan/SUBCONTRACT REQUEST

TC 63-35DBE
Rev. 06/11/02

PROJECT CODE NO : 04-1216

DBE Firm/Subcontract # : 1

TO : Rick Stansel

Executive Director Division of Contract Procurement

FROM : Haydon Brothers Contracting, Inc.

Prime Contractor

SUBJECT : Marion

STPR 5115 (20)

County

Project Number

I hereby request to utilize for DBE participation a portion of the subject project to:

N.H. Stone of P.O. Box 239 Sharpburg, Kentucky

DBE Employer Identification Numbers:

Federal

61-0675026

KY

70049

The amount to be subcontracted by this request is

DBE

\$93,181.19

or

3.92%

Contract

\$93,181.19

or

3.92%

of the

(original contract) or a subcontract amount of

\$ 2,376,600.00

\$

2,376,600.00

I have previously requested approval for subcontracts or agreements with other DBE as follows:

Name of DBE firm

DBE Amount

DBE %

Contract "Worth"

Amount

Contract %

Totals based on original contract Amounts

\$93,181.19

3.92%

\$93,181.19

3.92%

This section applicable if DBE firm is also a Subcontractor of work on Project:

This subcontractor has been furnished a copy of Appendix B of 49 CFR Part 29 and advised to include the Certification in all lower tier covered transactions and in all solicitations for lower tier transactions (Federal Aid Contracts only).

The proposed subcontractor is on the Department's list of qualified contractors and has current insurance coverage: Policy Number C0979X7846

Travelers Prop Cas Ins Co

Name of Insurance Company

which expires on

January 1, 2005

Date

with

Kenneth Bell

Prime Contractor's Signature

11/15/2004

Date

Recommended by Office of Minority Affairs Signature

Date Recommended by Office of Minority Affairs

*Reviewed
Approved
11/24/04*

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N.H. Stone

(**) When the quantity is not the entire amount of (Contract) or (Sub-Contract) estimate, limitations by stations must be shown or definitely designated in some suitable, positive manner.

Unit prices using Contract Unit Price should be for Bid Unit Price for work to be performed by Sub Contractor. DBE Unit price should be for the agreed upon price for item or portion of item of contract work.

Description	Total Contract Quantity	Unit	DBE Unit Price	Dollar Amount based on DBE Price	Comments
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Page 3 of 3

Project Code Number (PCN): **04-1216**

DBE Firm **N.H. Stone**

(*) When description is limited by such as "Laying Only" "Erection Only" "Manipulation Only" etc. it should be so indicated and explained.
(**) When the quantity is not the entire amount of (Contract) or (Sub-Contract) estimate, limitations by stations must be shown or definitely designated in some suitable, positive manner.

Unit prices using Contract "worth" Unit Price should be for Bid Unit Price for work to be performed by Sub Contractor. If partial work item ie "laying only" then use agreed to price for Contract "worth" Unit Price. DBE Unit price should be for the agreed upon price for item or portion of item of contract work.

The Items to be subcontracted are as follows:

Estimate Sub Section Seq. #	Proposal Item No.	Description	Unit	Contract Quantity	Contract "Worth" Unit Price	Dollar Amount based on Contract Price	DBE Quantity	DBE Unit Price	Dollar Amount based on DBE Price
370	Guard Rail Steel "W" Beam-SF		LF	1257.00	17.45	\$21,934.65	1,257.00	\$17.45	\$21,934.65
380	Guard Rail Terminal Section No. 1		Each	12.00	40.55	\$486.60	12.00	\$40.55	\$486.60
390	Guard Rail Connector To Bridge End Ty A		Each	4.00	2,015.00	\$8,060.00	4.00	\$2,015.00	\$8,060.00
400	Remove Guard Rail		LF	1334.00	1.50	\$2,001.00	1,334.00	\$1.50	\$2,001.00
410	Guard Rail End Treatment Type 4A		Each	1.00	2,040.00	\$2,040.00	1.00	\$2,040.00	\$2,040.00
420	Temporary Guard Rail		LF	505.00	8.30	\$4,191.50	505.00	\$8.30	\$4,191.50
430	R/W Marker Rural Type 1		Each	44.00	71.35	\$3,139.40	44.00	\$71.35	\$3,139.40
650	Erosion Control Blanket		SY	3322.00	1.15	\$3,820.30	3,322.00	\$1.15	\$3,820.30
660	Temp Seeding & Protection		SY	6328.00	0.22	\$1,392.16	6,328.00	\$0.22	\$1,392.16
670	TopDressing Fertilizer		TN	7.00	320.00	\$2,240.00	7.00	\$320.00	\$2,240.00
680	Seeding & Protection		SY	126554.00	0.27	\$34,169.58	126,554.00	\$0.27	\$34,169.58
690	Special Seeding Crown Vetch		SY	27000.00	0.17	\$4,590.00	27,000.00	\$0.17	\$4,590.00
740	Shade Trees		LS	1.00	4,720.00	\$4,720.00	1.00	\$4,720.00	\$4,720.00
750	Riparian Zone Seeding		LS	1.00	396.00	\$396.00	1.00	\$396.00	\$396.00

Comments:

P ge Tot | \$93,181.19

\$93,181.19

SUBCONTRACT

THIS SUBCONTRACT, made and entered into this ____ day of _____, 2004, by and between HAYDON BROTHERS CONTRACTING, INC., P.O. BOX 67, SPRINGFIELD, KY 40069 (hereinafter "Contractor"); and N.H. STONE, INC., P.O. BOX 239, SHARPSBURG, KENTUCKY 40374 (hereinafter "Subcontractor", whether one or more).

WITNESSETH: Whereas Contractor has heretofore been awarded a contract with the Kentucky Transportation Cabinet, Frankfort, Kentucky 40602, (hereinafter "Owner") on the 29th day of September, 2004 (hereinafter "Prime Contract") for the construction project described as Marion County, STPR 5115 (20), FD52 078 0049 010-012, PCN 04-1216 (hereinafter referred to as the "Project"), and the parties hereto desire that Subcontractor shall perform certain work in connection therewith:

IT IS THEREFORE contracted and agreed between the Contractor and Subcontractor as follows:

I. Description of Work. Subcontractor shall furnish all supplies, labor, supervision, tools, machinery, equipment, services and other items required to fully complete the portion of work on the Project as described herein, and shall fully perform the following items of work, namely:

DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT
Guard Rail Steel "W" Beam-SF	1,257.00	LF	\$17.45	\$21,934.65
Guard Rail Terminal Section No 1	12.00	EACH	\$40.55	\$486.60
Guard Rail Connector To Bridge End TY A	4.00	EACH	\$2,015.00	\$8,060.00
Remove Guard Rail	1,334.00	LF	\$1.50	\$2,001.00
Guard Rail End Treatment Type 4A	1.00	EACH	\$2,040.00	\$2,040.00
Temporary Guard Rail	505.00	LF	\$8.30	\$4,191.50
R/W Marker Rural Type 1	44.00	EACH	\$71.35	\$3,139.40
Erosion Control Blanket	3,322.00	SY	\$1.15	\$3,820.30
Temp Seeding & Protection	6,328.00	SY	\$0.22	\$1,392.16
TopDressing Fertilizer	7.00	TON	\$320.00	\$2,240.00
Seeding & Protection	126,554.00	SY	\$0.27	\$34,169.58
Special Seeding Crown Vetch	27,000.00	SY	\$0.17	\$4,590.00
Shade Trees	1.00	LS	\$4,720.00	\$4,720.00
Riparian Zone Seeding	1.00	LS	\$396.00	\$396.00
				\$93,181.19

II. Subcontract Price. Subcontractor shall be paid by Contractor, for the satisfactory performance and completion of Subcontractor's work described herein and all of the duties, obligations and responsibilities of the Subcontract under the Subcontract Documents, at the rate of the unit prices set forth in Paragraph I of this Subcontract (hereinafter called the "Subcontract Price"), subject to additions and deductions as provided herein. It is specifically understood and agreed by Subcontractor that the quantities of items set forth in Paragraph I are estimated quantities only and that the earnings of Subcontractor under this

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Agreement shall be determined by the quantities of work that are actually allowed and paid to Contractor by Owner.

The Subcontract Price includes all federal, state, county, municipal, and other taxes and assessments imposed by law and based upon labor, services, materials, equipment or other items acquired, performed, furnished or used for in connection with the Subcontractor's work, including but not limited to sales, use and personal property taxes payable by or levied against the Owner, Contractor, or the Subcontractor. Where the law requires any such taxes or assessments to be stated and charged separately, the total price of all items included in Subcontractor's work, plus the amount of such taxes shall not exceed the Subcontract Price.

III. Subcontract Documents. The Subcontract Documents consist of (1) this Subcontract; (2) the Prime Contract, consisting of the Contract between the Owner and the Contractor and the other Contract Documents enumerated therein, including but not limited to the Conditions of the Contract (General, Special, Supplementary and other Conditions), Drawings, Plans, Specifications, Addenda and Modifications, whether issued before or after the execution of this Agreement, and other Contract Documents, if any, listed in the Owner-Contractor agreement; (3) any other documents specifically incorporated into this Subcontract by reference herein; and (4) Modifications to this Subcontract issued after the execution hereof, all of which are hereby referred to and made a part of this Subcontract as though copied at length herein (and all of which documents are hereinafter collectively referred to as the "Subcontract Documents").

This Subcontract shall be performed in strict accordance with the Subcontract Documents and to the satisfaction of Contractor and Owner. The Subcontractor represents and agrees that it has carefully examined and understands the Subcontract Documents, copies of which have been and remain available for inspection and copying by Subcontractor, that it has investigated the nature, locality and site of the Project and the conditions and difficulties under which it is to be performed, and that it enters into this Subcontract on the basis of its own examination, investigation and evaluation of all of such matters and not in reliance upon any opinions or representations of Contractor, Owner, or any of their respective officers, agents, servants or employees.

IV. Payment.

(a) Progress Payments: Retainage. Subcontractor shall be paid by Contractor at the rate of the unit prices listed in Paragraph 1 for all work performed and materials and supplies furnished, within ten (10) working days after the Contractor receives payment from the Owner, payment to Subcontractor being expressly conditioned upon Contractor's prior receipt of payment from Owner. It is specifically understood and agreed by Subcontractor that no payment by Contractor to Subcontractor shall be construed as acceptance of any portion of Subcontractor's Work, a waiver of any defect or deficiency in Subcontractor's performance, or relieve Subcontractor of any of its obligations arising out of this Subcontract. Should Contractor at any time determine that payment has been made to Subcontractor, or on Subcontractor's behalf, in excess of amount then due for work under this Subcontract, then Subcontractor shall promptly repay such excess to Contractor with three (3) days of demand for repayment.

(b) Final Payment. Final Payment shall be made by Contractor to Subcontractor within thirty (30) days after completion and acceptance of the Subcontractor's work by Contractor and the Owner, provided that (1) Contractor shall have first received final payment from the Owner; (2) Subcontractor shall have furnished, if requested, evidence satisfactory to Contractor that there are no claims, obligations

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or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes or other items performed, furnished or incurred for or in connection with the Subcontractor's work; and (3) Subcontractor shall have executed and delivered to Contractor, in a form satisfactory to Contractor, a Release of Lien and an Affidavit of Payment running to and in favor of Contractor and the Owner.

(c) Payments Withheld. Subcontractor shall meet all of its obligations and liabilities pertaining to this Subcontract on a timely basis and shall furnish at any time requested evidence satisfactory to Contractor that there are no claims outstanding or unsatisfied for labor, services, materials, equipment, taxes, or other items performed, furnished or incurred for or in connection with the Subcontractor's work. In the event that Subcontractor does not comply with the above, Contractor may retain from monies owing to Subcontractor sufficient sums to indemnify Contractor and Owner against any claims or obligations related to this Subcontract. Contractor may disburse monies owing to the Subcontractor as Contractor may determine necessary, including joint check arrangements or payments directly to persons or entities claiming by or through Subcontractor, to satisfy the above claims against or obligations of Subcontractor. Should Contractor advance money to Subcontractor or pay on his behalf any bills, accounts, labor or other items, such advances, disbursements and payments may be deducted from amounts due or to become due to Subcontractor or the retained percentage, at the option of Contractor. Should such advances and payments be in excess of the total amount finally due Subcontractor, then Subcontractor shall promptly repay such excess to Contractor on demand.

V. Date of Commencement and Completion. Time is of the essence in the Prime Contract and is hereby declared to be of essence in this Subcontract. Subcontractor shall prosecute the subcontract work with all possible diligence and all possible speed in order to insure completion of the work at the earliest possible date and shall fully cooperate with Contractor in scheduling and performing the Subcontract Work to avoid conflict, delay in or interference with the Work of the Contractor or others upon the Project. Subcontractor shall begin its work within five (5) days of notice to proceed by Contractor. In the event that Subcontractor does not perform its work promptly and the completion of the Project is thereby delayed, then Subcontractor shall assume and pay any damages, including but not limited to any liquidated damages provided by the Prime Contract that may be incurred by or assessed against the Contractor. The final completion date for the project is November 1, 2005.

No extension of time will be valid without the Contractor's prior written consent after written claim for adjustment is made by the Subcontractor.

Contractor shall not be liable to Subcontractor for any costs or damages due to delays, escalation, accelerations, nonperformance, interferences with performance, suspensions, or changes in the performance or sequence of the Subcontractor's work. Should this Subcontract, in whole or in part, be interfered with or delayed, or be suspended in commencement, prosecution, or completion, for reasons beyond the control of the Subcontractor's control, without fault or negligence, Subcontractor shall be entitled to, and shall be fully compensated by, an extension of time in which to complete its work; but, only if Subcontractor shall have first notified the Contractor in writing of the cause of delay within two (2) days of the occurrence of the event, and the further condition that Contractor shall have received a similar extension of time from the Owner.

VI. Interruption of Work. Subcontractor shall not employ any persons or means of construction which may cause strikes, work stoppages, work interruption or hindrance, or any other disturbances, of any nature whatsoever, by Contractor's employees or the employees of any other contractor or subcontractor on the Project, with respect to any work related to this Subcontract Agreement and the Project.

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Subcontractor Initials



VII. Subcontractor Default. Should the Subcontractor fail, in the opinion of Contractor, to prosecute the work with sufficient force and speed, or default or neglect to carry out the work in accordance with this Subcontract, or cause by any act or omission the stoppage or delay of or interference with or damage to the work of Contractor or any other Contractors or Subcontractors on the Project; including but not limited to any violation of the provisions of Paragraph VI above, or fail in the performance of any of the terms and provisions of the Subcontract Documents, or should the Owner or Contractor determine that Subcontractor's work or any portion thereof is not being performed in accordance with the Subcontract Documents, or should there be filed by or against Subcontractor a Petition in Bankruptcy, or should the Subcontractor become insolvent or be adjudicated bankrupt, or go into liquidation or dissolution either voluntarily or involuntarily, or make a general assignment for the benefit of creditors, or otherwise acknowledge insolvency, then in any of such events, each of which shall constitute a default hereunder by Subcontractor, and Subcontractor fails within three (3) working days after receipt of written notice from the Contractor to commence and continue correction of such default or neglect with diligence and promptness, the Contractor may, at its option and in addition to any other rights and remedies provided by this Subcontract or by law, elect to proceed in any one or more of the following manners:

(1) Contractor may employ and use on said work, or any portion thereof, such number of workmen, laborers, supervisors, teams, tools, machinery, equipment and/or other subcontractors, at such wages, prices and rentals as Contractor may deem necessary and expedient to insure the prompt completion of the work and Project, and it shall charge all of same to Subcontractor;

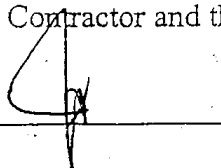
(2) Contractor may relet the work, either in whole or in part, to such other persons or entities as it may desire, at such prices as it may deem proper, and shall charge the costs thereof to Subcontractor;

(3) Contractor may declare the rights of Subcontractor under this Agreement to be terminated and, in such event, Subcontractor shall only be paid for the actual work done by it to the date of termination, less the amount of any damages, claims, obligations or liabilities incurred by Contractors or Owner by virtue of Subcontractor's actions;

(4) Contractor may terminate the employment of Subcontractor for all or any portion of the Subcontractor's work, enter upon the premises and take possession of, for the purpose of completing the Subcontractor's work, all materials, equipment, tools, appliances and other items thereon, all of which the Subcontractor hereby transfers, assigns and sets over to Contractor for such purpose, and to employ any person or persons to complete the Subcontractor's work and provide all of the labor, services, materials, equipment and other items required therefore. In any such event, Subcontractor shall remain bound, and all other terms of this Agreement shall remain in force, to the extent of the work or areas which have not been so terminated. In case of such termination of Subcontractor, it shall not be entitled to receive any further payment under this Agreement until the Subcontractor's work shall be fully completed to the satisfaction of Contractor and Owner and shall have been accepted by them, at which time, if the unpaid balance of the amount to be paid under this Subcontract shall exceed the costs, and expenses, incurred by Contractor in completing the Subcontractor's work, such excess shall be paid to Subcontractor; but in the event that such costs, and expenses, shall exceed the unpaid balance of the Subcontract price, then Subcontractor shall pay the difference to Contractor upon demand.

For purposes of this Paragraph VII, the costs and expenses recoverable by Contractor from Subcontractor for Subcontractor default shall include, in addition to the costs of completing the Subcontractor's work to the satisfaction of the Contractor and the Owner and of performing and furnishing all labor, services,

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materials, equipment and other items required therefore, but also all losses, damages, claims, obligations, liabilities, costs and expenses, including attorneys' fees, incurred or suffered by Contractor by reason of or resulting from the Subcontractor's default.

VIII. Changes. Without invalidating this Subcontract, Contractor may, at any time or from time to time, order additions, deletions, or revisions in the work. These additions, deletions or revisions will be authorized by Change Orders. Upon receipt of a Change Order, Subcontractor shall proceed with the work involved regardless of whether an unresolved claim for equitable adjustment to the Subcontract Price or Subcontract Time is pending. All such work shall be executed under the applicable conditions of the Contract and/or Subcontract documents. If any change order causes an increase or decrease in the Subcontract Price or an extension or shortening of the Subcontract Time, an equitable adjustment will be made based upon a claim made therefore by either party.

Contractor may authorize minor changes or alterations in the work not involving extra cost and not inconsistent with the overall intent of the Contract and/or Subcontract documents. These may be accomplished by a Field Order. If Subcontractor believes that any minor change or alteration entitles him to an increase in the Subcontract Price, he may make a claim therefore.

Additional work performed by the Subcontractor without the authorization of a Change Order will not entitle him to an increase in the Subcontract Price or an extension of the Subcontract Time.

In the event that a claim for equitable adjustment in the Subcontract Price or the Subcontract Time is made and the Contractor and Subcontractor are unable to agree upon such an adjustment, the claim shall be submitted for resolution pursuant to Paragraph XIII hereof.

It is the Subcontractor's responsibility to notify his surety if applicable of any changes affecting the general scope of the work or change in the Contract Price and the amount of the applicable bonds shall be adjusted accordingly. Subcontractor shall furnish proof of such adjustment to the Contractor.

IX. Insurance. Prior to commencement of any work under this Subcontract and until completion and final acceptance of the work, the Subcontractor shall, at its sole expense, maintain the following insurance on its own behalf, and furnish to the Owner and Contractor, certificates of insurance evidencing same and reflecting the effective date of such coverage as follows:

The term "Subcontractor" as used in this insurance rider, shall mean and include Subcontractors of every tier.

- A. Worker's Compensation and Occupational Disease Insurance in accordance with the applicable law or laws; Employer's Liability Insurance. This includes sole proprietorships and officers of corporations who will be performing work on the job.
- B. Commercial General Liability with combined Bodily Injury and Property Damage limit of not less than One Million (\$1,000,000.00) dollars per occurrence and in the aggregate. The aggregate must be applicable on a per project basis. Coverage must include the following perils:

- i. Broad Form Blanket Contractual Liability for liability assumed under this Contract and all other Contracts relative to the project.
- ii. Completed Operations/Products Liability for a minimum of three (3) years after

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- completion of project.
- iii. Broad Form Property Damage.
 - iv. Personal and Advertising Injury Liability.
 - v. Independent Contractors.
 - vi. Endorsements must be furnished reflecting the inclusion of the interests of Owner, Contractor, their officers, directors, partners, representatives, agents, and employees, and naming each as an Additional Insured on a primary basis for both premise and completed operations coverages.
 - vii. Coverage is to be endorsed to reflect that insurance is to be primary non-contributory with respect to any other collectable insurance, for the Owner, Contractor, and all other parties required to be named as additional insureds for both premise and completed operations coverages.
 - viii. Coverage is to be provided on an "occurrence" basis with carriers licensed and admitted to do business in the state where work will be completed or otherwise acceptable to the Contractor.
 - ix. A copy of policy and/or endorsement(s) and any other documents required to verify such insurance are to be submitted with the appropriate certificates(s), or upon request of Contractor. Failure to provide these documents is not to be construed as a waiver of the requirements to provide such insurance.
- C. Commercial Automobile Liability Insurance covering the use of all Owned, Non-Owned, and Hired Vehicles with the combined Bodily Injury and Property Damage Limit of at least One Million (1,000,000.00) Dollars.
- D. Where an Off Project Site Property exposure exists, the Subcontractor at its sole expense shall furnish to the Owner and Contractor, Certificates of Insurance and other required documentation evidencing the following coverage which shall provide for the interests of Contractor to be named as Loss Payees and shall contain a provision requiring the insurance carriers to waive their rights of subrogation against all indemnities named in the Contract. "All Risk" Property Insurance on all materials, equipment and supplies intended to become a permanent part of the construction stored on premises away from the project site and while in transit, until actually delivered to the project site. Coverage is to be provided on a replacement cost basis.
- E. The certificates and insurance policies required by this Paragraph shall each contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days' prior written notice by certified mail, return receipt requested, has been given to the Contractor.
- F. The amount of insurance coverage stated in any certificate or insurance policy shall not be construed as a limitation of liability of the Subcontractor or any of its Subcontractors nor has it be interpreted as relieving to any extent the Subcontractor's liability or responsibility under this Subcontract.
- G. The certificates and insurance policies required by this Paragraph shall be delivered to the Contractor for review and approval at least ten (10) working days prior to commencement date of this Subcontract and shall be maintained by the Contractor throughout the term of this Subcontract. The Contractor reserves the right, in its sole discretion, to accept or

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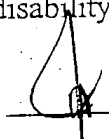
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reject any certificate or insurance policy based on the adequacy of the insurance provided, the character or soundness of the insurance carrier or for any other reason.

- H. The certificates and insurance policies required by this Paragraph shall provide that the insurer waive its right to subrogation against the Contractor and shall further provide that such waiver shall be effective as to any person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged or was otherwise involved in the action causing indemnification by the insurance carrier.
- I. In the event that the Subcontractor enters into a further Subcontract with any other party for the performance of the work contemplated by this Subcontract, Subcontractor shall require that said further Subcontractor also provide for the certificates and insurance policies as required by this Paragraph in at least the coverage amounts required of the Subcontractor by this Subcontract and containing the same provisions as are required of certificates and insurance policies by this Paragraph.
- J. In the event that Subcontractor deems that additional insurance coverage is desired for its own benefit, for additional protection or which is otherwise required by statute or for reasons other than this Subcontract, such additional insurance coverage shall be procured at its own expense.
- K. Should the Subcontractor engage a Subcontractor, the same conditions will apply under this Subcontract to each Subcontractor, however, the retained Subcontractor shall be required to maintain limits of liability of not less than One Million (1,000,000.00) Dollars per occurrence and in the aggregate, with said limits applicable on a per project basis, or such greater limits as may be required by the retaining Subcontractor.


X. Indemnification. To the fullest extent permitted by law, the Subcontractor expressly agrees to defend (at Subcontractor's expense and with counsel acceptable to the Contractor), Indemnify, and hold harmless Owner, Contractor, Architect, Architect's Consultants, Engineer, Construction Manager, Lender and any other parties which Contractor has agreed to indemnify as named or referenced in the project contract documents as attached to and made a part of this Subcontract, and their respective Officers, Directors, Shareholders, Employees, Agents, Successors, Affiliates and Assigns from and against any and all claims, suits, losses, cause of action, damages, liabilities, fines, penalties and expenses of any kind whatsoever, including without limitation arbitration or court costs and attorney's fees, arising on account of or in connection with injuries to or the death of any person, or any and all damages to property including loss of use, from or in any manner connected with the work performed by or for the Subcontractor under this Subcontract, caused in whole or in part by the presence of the person or property or negligent acts or omissions of Subcontractor or any of its Employees, Agents, Representatives, Sub-Subcontractors, or suppliers or anyone for whose acts they may be liable, including without limitations such claims, damages, loss or expense caused in part by the negligent acts or omissions of a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce the rights or obligations of indemnity which would otherwise exist as to a party or person described in the Paragraph. The defense and indemnification obligations under this Subcontract agreement shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Subcontractor under workers' compensation acts, disability benefits acts, or other employee of the Subcontractor or of any third party to

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Subcontractor Initials



whom Subcontractor may subcontract a part of all of the work.

XI. Performance and Payment Bonds. Subcontractor agrees to furnish a performance and payment bond for the Project.

XII. Warranty. Subcontractor warrants to the Contractor that all materials and equipment furnished under this Subcontract will be of good quality and new unless otherwise required or permitted by the Subcontract Documents, that the work of this Subcontract will be free from defects not inherent in the quality required or permitted, and that Subcontractor's warranty and work will conform in all respects with the requirements of the Subcontract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. This warranty shall be in addition to and not in limitation of any other warranty or remedy provided by law or by the Subcontract Documents.

XIII. Dispute Resolution. Any claim, controversy or dispute between the Contractor and Subcontractor arising out of or related to this Subcontract, or a breach hereof, and which claim, controversy or dispute is not resolved by mutual agreement between the parties, shall, unless otherwise required by the Prime Contract or applicable law, be submitted to a judicial court of competent jurisdiction within Washington County, Kentucky. The Subcontractor further covenants and agrees that no dispute shall interfere with the progress of Subcontractor's work, and the Subcontractor agrees to proceed with the Subcontract Work as required in spite of any claim, controversy or dispute it may have with the Contractor, the Owner or other parties.

XIV. Laws, Permits, Fees and Notices. The Subcontractor shall give all notices required by and comply with all laws, ordinances, rules, regulations and orders of any public authorities applicable to the performance of the Subcontract Work. The Subcontractor shall secure and pay for all permits, fees, licenses and inspections necessary for proper execution and completion of the Subcontractor's work as required by the Subcontract Documents.

The Subcontractor shall abide by all laws, ordinances, rules, regulations and orders of any state and federal authorities applicable to the Environmental Protection Act and/or water and air pollution requirements.

Subcontractor further covenants and agrees to pay its own payrolls, taxes and all other costs and expense associated with the work required under this Agreement; furnish Contractor with copies of all weekly payrolls and other documentation showing compliance with applicable laws and regulations, if required; furnish Contractor with copies of MSDS (Material Safety Data Sheets) for all materials used on the Project and a copy of Subcontractor's written hazard communication program; and acknowledges and agrees that any payment received by Subcontractor shall be held in trust for the purpose of paying its subcontractors, laborers, material men, suppliers and any others claiming by or through Subcontractor and who may be entitled to assert a lien or other claim against the Project.

XV. Removal of Equipment. Subcontractor shall not, without the prior written consent of Contractor, remove or permit to be removed from the Project any equipment, machinery, tools, materials, supplies or other items that have been purchased for or placed on the Project for use in connection therewith until the Subcontract Work has been completed.

XVI. Rental Equipment. If Subcontractor makes use of Contractor's equipment, Subcontractor shall pay current AED rental rates, or the rates commonly charged in the area where the work is to be performed in

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the event the AED rental rates are not provided, unless otherwise agreed to by the parties in writing.

Subcontractor shall furnish to Contractor a list of all equipment not owned by Subcontractor placed on the job by Subcontractor, together with the name of the Owner of said equipment and the terms of the lease, if any.

XVII. Cleanup. Subcontractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations performed under this Subcontract and shall, upon completion of its work, leave the Project site in a clean and orderly condition.

XVIII. Association Dues. Subcontractor agrees to pay its proportionate share of the Kentucky Association of Highway Contractors (KAHC) Dues.

XIX. Equal Employment Opportunity and Affirmative Action. Subcontractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, religion, national origin, physical or mental handicap, or because he or she is a disabled veteran or veteran of the Vietnam era. Subcontractor agrees to take affirmative action to insure that qualified applicants are employed, and that employees are treated during employment, without regard to race, creed, color, sex, age, religion, national origin, physical or mental handicap, or status as a disabled veteran or veteran of the Vietnam era. To the extent applicable, Subcontractor shall comply with all provisions of Executive Order No. 11246, dated September 24, 1976; the Vietnam Era Veterans Readjustment Assistance Act of 1974, the Rehabilitation Act of 1973, and all amendments thereto, and all rules, regulations, orders, instructions, designations and other directives promulgated pursuant thereto, the terms of all of which are incorporated herein by reference. Violation of this provision shall be considered a material breach of this Subcontract and shall entitle Owner to exercise any of the options set forth in Paragraph VII hereof, including termination or suspension of this agreement in whole or in part.

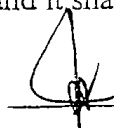
XX. Assignment. Subcontractor shall not sublet or assign any portion of this Subcontract, nor any monies due or to become due, or Subcontractor's earnings and compensation hereunder, without prior written consent of Contractor. Any such assignment or subletting without prior written consent of Contractor shall be void and of no effect.

XXI. Notice. All notices, demands and other communications provided fore herein shall, unless otherwise provided, be sufficient if in writing and if delivered personally to the other party, or mailed by United States Mail, postage prepaid, to the respective addresses of Contractor and Subcontractor as set forth hereinabove, or such other address as either may have designated from time to time. Contractor may exercise any right given to it immediately after mailing the letter containing such notice; however, this does not preclude an Contractor from giving notice in any other legal matter.

XXII. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Kentucky. Any action by the Subcontractor against the Contractor as a result of this contract shall be brought in Washington County, Kentucky, Circuit Court.

XXIII. Safety. The Subcontractor agrees it has been hired as an expert in its trade and that with respect to the Subcontractor's work it is solely responsible for compliance with all applicable laws, ordinances, regulations, and governmental orders applying to safety, including the Occupational Safety & Health Act (OSHA). The Subcontractor further agrees to furnish all safety equipment and instrumentalities relevant to its responsibilities, and it shall assure itself that any tools, equipment, scaffolding or other items which may

Contractor Initials



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Subcontractor Initials



be loaned to it by the Contractor are in good order in compliance with OSHA standards and any other laws designed to protect the safety of persons at the job site.

The Subcontractor agrees to implement, maintain and enforce a policy and program materially equivalent to Contractor's Alcohol and Drug-Free Workplace Policy applicable to the Project. The Contractor's said Project Policy shall consist of its corporate Alcohol and Drug-Free Workplace Policy (which is available for review by the Subcontractor promptly upon request of the Subcontractor) as modified by those laws, ordinances, rules, regulations, orders, Principal Contract provisions, and labor agreements and commitments applicable to the Project.

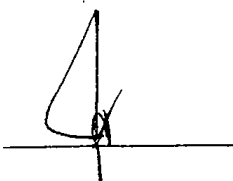
The Subcontractor agrees to defend, indemnify and hold harmless the Contractor with respect to any liability, fines, penalties or corrective measures for non-compliance with or violation of any said laws, ordinances, regulations, orders, policies and/or programs or for injuries or death resulting from said non-compliance or violation (which non-compliance or violation is a material breach of this Subcontract), and to reimburse the Contractor and any other subcontractor on the Project for any and all financial loss sustained because of the Subcontractor's non-compliance and/or violation.

XXIV. Severability and Waiver. The partial or complete invalidity of any one or more provisions of this Subcontract and the Subcontract Documents shall not affect the validity or continuing force and effect of any other provision or the application of such provisions to persons and circumstances other than those as to which it is determined invalid or unenforceable. The failure of Contractor to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right.

XXV. Uniform Construction of Agreement. Contractor and Subcontractor mutually agree that the interpretation, construction and enforcement of this Subcontract shall be uniform in all respects and shall not be construed more or less favorably for either Contractor or Subcontractor.

XXVI. Entire Agreement. This Subcontract represents the entire and integrated agreement between the Contractor and Subcontractor and supersedes all prior negotiations, representations, or agreements, either written or oral, and shall not be altered, modified or amended in any manner whatsoever unless the same shall be in writing and signed by the parties hereto.

Contractor Initials



Subcontractor Initials



IN WITNESS WHEREOF, the parties have executed this Subcontract, or have caused it to be executed by their duly authorized officers this 15 day of November, 2004.

HAYDON BROTHERS CONTRACTING, INC.

By: [Signature]

Title: PRESIDENT

STATE OF KENTUCKY COUNTY OF WASHINGTON

The foregoing Subcontract was this 15 day of November, 2004, subscribed, sworn to and acknowledged before me by JOHN C. HAYDON in his capacity as PRESIDENT of HAYDON BROTHERS CONTRACTING, INC.

NOTARY PUBLIC [Signature]

My Commission Expires 6-13-08

N.H. STONE, INC.

By: [Signature]

Title: President

Federal ID 61-0675026 State ID 070049

STATE OF KENTUCKY COUNTY OF

The foregoing Subcontract was this 9th day of November, 2004, subscribed, sworn to and acknowledged before me by Cassandra S. Hurter in his (her) capacity as President of N.H. Stone, Inc.

NOTARY PUBLIC [Signature]

My Commission Expires 03-23-08

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Subcontractor Initials CSH

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
11/10/04

PRODUCER

Lexington - Commercial
Palmer & Cay, Inc.
360 East Vine Street
Lexington, KY 40507

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURED

N. H. Stone, Inc.
P. O. Box 239
Attention: Fred Clark
Sharpsburg, KY 40374

INSURER A: Travelers Prop Cas Ins Co

INSURER B: AIK Comp

INSURER C: Chubb Indemnity Insurance Co

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	CO979X7846	01/01/04	01/01/05	EACH OCCURRENCE	\$1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,000
						MED EXP (Any one person)	\$5,000
						PERSONAL & ADV INJURY	\$1,000,000
						GENERAL AGGREGATE	\$2,000,000
						PRODUCTS - COMP/OP AGG	\$2,000,000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	810979X7846	01/01/04	01/01/05	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
A		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10000	CUP979X7846	01/01/04	01/01/05	EACH OCCURRENCE	\$5,000,000
						AGGREGATE	\$5,000,000
							\$
							\$
							\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	1041	01/01/04	01/01/05	WC STATUTORY LIMITS	
						E.L. EACH ACCIDENT	\$2,000,000
						E.L. DISEASE - EA EMPLOYEE	\$2,000,000
						E.L. DISEASE - POLICY LIMIT	\$2,000,000
C		OTHER Excess Comm. Excess Liability	79815122	01/01/04	01/01/05		
						\$5,000,000 Ea. Occur.	
						\$5,000,000 Aggregate	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Project: Marion County STPR 5115(20)

RECEIVED NOV 12 2004

CERTIFICATE HOLDER

Haydon Brothers Contracting, Inc.
Attn: Jessica Mackin
P.O. Box 67
Springfield, KY 40069

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Ch P. Bantt

Kentucky Transportation Cabinet
Department of Highways
Division of Construction

SUBCONTRACTOR'S CERTIFICATION RECEIPT OF CONTRACT PROPOSAL

I hereby certify that N.H. Stone, Inc. of Sharpsburg, KY, have
Subcontracting Company City, State
a copy of the contract proposal in the Bid Letting 09-17-04, for UPN 04-1216
Letting Date
STPR 5115(20), in Marion County, and will abide by the
conditions set forth and therein said contract proposal.

Cassandra J. Hunter 11-09-04 N.H. Stone, Inc.
Representative Date Subcontracting Company

Hereby recognized as an official representative of this Company, with full authority to sign, I understand and am fully aware of the conditions set forth and herein by this statement. •

Sworn to me this 9th day of November, ~~XX~~2004

Joseph F. Clark NOTARY PUBLIC

My Commission Expires March 23, 2008

TRANSPORTATION CABINET
DIVISION OF CONTRACT PROCUREMENT
(Notice to Labor Unions or Other Organizations of Workers)

NONDISCRIMINATION IN EMPLOYMENT

TO: _____ WHOM IT MAY CONCERN
(Name of Union or Organization of Workers)

THE UNDERSIGNED CURRENTLY HOLD CONTRACT CH NO. _____

PROJECT NO: _____ STPR 5115(20)

Marion County

WITH THE TRANSPORTATION CABINET, COMMONWEALTH OF KENTUCKY, FRANKFORT, KENTUCKY.

You are advised that under the provisions of the above contract or subcontract and in accordance with KRS Chapter 344, "An Act of the Kentucky General Assembly to Prevent Discrimination in Employment," and Presidential Executive Order No. 11246 of September 24, 1965, the undersigned is obliged not to discriminate against any employee or applicant for employment because of race, color, age, sex, religion, or national origin. This obligation not to discriminate in employment includes, but is not limited to, the following:

HIRING, PLACEMENT, UPGRADING, TRANSFER OR DEMOTION

RECRUITMENT, ADVERTISING, OR SOLICITATION FOR EMPLOYMENT

TRAINING DURING EMPLOYMENT

RATES OF PAY OR OTHER FORMS OF COMPENSATION

SELECTION FOR TRAINING INCLUDING APPRENTICESHIP

LAYOFF OR TERMINATION

This notice is furnished you pursuant to the provisions of the above contract or subcontract, and KRS Chapter 344 in regard to nonfederal-aid projects and Presidential Executive Order No. 11246 of September 24, 1965, in regard to federal-aid projects.

N.H. Stone, Inc.
(Contractor or Subcontractor)

BY: Caranda J. Hunter

DATE: November 9, 2004

COPIES OF THIS NOTICE SHALL ALSO BE POSTED BY THE CONTRACTOR IN CONSPICUOUS PLACES AVAILABLE TO EMPLOYEES OR APPLICANTS FOR EMPLOYMENT.

CONTRACTOR NOTICE

N.H. Stone, Inc.
CONTRACTOR

P.O. Box 239 Sharpsburg, Kentucky 40374
ADDRESS

EQUAL EMPLOYMENT OPPORTUNITY POLICY

IT IS THE POLICY OF THIS COMPANY TO ASSURE THAT APPLICANTS ARE EMPLOYED, AND THAT EMPLOYEES ARE TREATED DURING EMPLOYMENT WITHOUT REGARD TO THEIR RACE, RELIGION, SEX, AGE, HANDICAP, COLOR, OR NATIONAL ORIGIN. SUCH ACTION SHALL INCLUDE: EMPLOYMENT, UPGRADING, DEMOTION, OR TRANSFER; RECRUITMENT OR RECRUITMENT ADVERTISING; LAYOFF OR TERMINATION; RATES OF PAY OR OTHER FORMS OF COMPENSATION; AND SELECTION FOR TRAINING, INCLUDING APPRENTICESHIP, PREAPPRENTICESHIP, AND/OR ON-THE-JOB TRAINING.

TO ASSURE PROPER IMPLEMENTATION OF THE ABOVE POLICY AT THE PROJECT SITE, THE FOLLOWING EMPLOYEE HAS BEEN APPOINTED EQUAL EMPLOYMENT OPPORTUNITY OFFICER:

FRED CLARK
EQUAL EMPLOYMENT OPPORTUNITY OFFICER

Sharpsburg, Kentucky (606) 247-2311
ADDRESS TELEPHONE NO.

ANY PROBLEMS, QUESTIONS AND COMPLAINTS OF DISCRIMINATION SHOULD BE REFERRED TO ABOVE NAMED EQUAL EMPLOYMENT OPPORTUNITY OFFICER AND/OR THE DIVISION OF CONTRACT PROCUREMENT, COMPLIANCE SECTION, TRANSPORTATION CABINET, FRANKFORT, KENTUCKY, PHONE (502) 564-4416.


COMPANY OFFICER

President 11-09-04
TITLE DATE